IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST.) NO.28050 OF 2005

WITH

CIVIL APPLICATION NO.1362 OF 2005

M/s.Lirin Roadlines Pvt. Ltd. ..Appellant.

Vs.

State of Maharashtra & anr. ..Respondents.

...

Mr.S.P.Kadam i/b M/s.Kadam & Co. for the Appellant.

Mr.K.K.Tated, AGP for the State.

....

**CORAM : DR.D.Y.CHANDRACHUD, J.**

8th December, 2005.

P.C. :

Not on Board. Mentioned. By consent taken up.

The contract that was entered into between the Appellant and the State for the lifting of water from a well belonging to the State

specifically provide in Clause 11 that it was liable to be terminated with two months notice. The State had issued several notices to the Appellant both before and after the last renewal of the term of the contract complaining that the Appellant had installed additional pumps for drawing an excess quantity of water. The Appellant was specifically informed as far back as on 21st May, 2005 to lift water only from one pump. A further notice was issued on 29th August, 2005. Eventually a notice of termination came to be issued on 19th September, 2005 in terms of Clause 11 of the agreement. The contract has been terminated and the City Civil Court has declined the grant ad interim relief by the impugned order. Section 14(1)(c) of the Specific Relief Act, 1963 provides that a contract which is in its nature determinable cannot be specifically enforced. Similarly under clause (a) of sub-section (1) a contract for the non-performance of which compensation in money is an adequate relief cannot be specifically enforced. Section 41 provides that an injunction cannot be granted inter alia to prevent the breach of a contract the performance of which would not be specifically enforced. In as

much as the contract by its nature is determinable, the specific performance cannot be enforced. The ad interim relief which is sought before the Trial Court essentially seeks the performance of a contract which is determinable and which is not capable of being specifically performed. In the circumstances, the denial of ad interim relief by the Learned Trial Judge cannot be faulted. There is no merit in the Appeal from Order which is accordingly dismissed.

However, it would be open to the Appellant to apply before the Trial Court for expeditious disposal of the suit.

In view of the rejection of the Appeal, the Civil Application does not survive and is accordingly disposed of.